WP(C) 4823/2003

BEFORE

THE HON’BLE MR JUSTICE RANJAN GOGOI

This writ petition has been filed essentially seeking implementation of an earlier order of this Court dated 11.9.2002 passed in CR No.2077/1997. By the aforesaid order this Court had directed the Director of Elementary Education, Assam to ensure the appointment of the petitioner in the Graduate Scale of Pay in the Vivekananda Bidyapith ME School, New Bongaigaon within a period of 3(three) months. A reading of the said order dated 11.9.2002 would go to show that such a benefit was required to be given to the petitioner with effect from 3.6.1996, i.e., the date of granting Graduate Scale of Pay to one of his juniors.

No affidavit has been filed by the Respondents in the present case. However, on instructions received, Mr.MR Pathak, learned Standing Counsel, Education has submitted that the Directorate, even upon detailed search and enquiry, has not been able to find out a copy of this Court’s order dated 11.9.2002 passed in CR No.2077 of 1997 and that is the reason why the order has remained unimplemented.

Mr. Mr. Pathak, learned SC, Education has further submitted that there may be some difficulties in implementing the order as under the norms in force Graduate Scale of Pay in ME Schools is attached to the post of Science Teachers only and to be appointed as a Science Teacher a candidate must have Mathematics as one of the subjects, which requirement is not possessed by the petitioner.

In the present writ petition, which has been filed for implementation of an earlier of this Court, this Court cannot reopen and/or re-adjudicate the validity of the said earlier order. As long as the order dated 11.9.2002 passed in CR 2077/97 remains on record, the Respondents will be duty bound to give effect to the same. In the above facts, I am of the view that this Writ Petition should be closed with a direction that the order dated 11.9.2002 passed in CR 2077/1997 shall now be implemented within an outer limit of 2(two) months from the date of receipt of a copy of the present order.

Writ Petition shall stand closed in terms of the above.